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COMMITTEE ON THE RIGHTS OF THE CHILD

Fourth session

SUMMARY RECORD OF THE 76th MEETING

Held at the Palais des Nations, Geneva,
on Monday, 20 September 1993, at 3 p.m.

Chairperson: Mrs. BADRAN

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The meeting was called to order at 3.20 p.m.

METHODS OF WORK OF THE COMMITTEE (agenda item 12) (continued)

1. Mr. MOMBESHORA, referring to the discussion on urgent action at the previous meeting, said that he wished to underline the importance of support from the specialized agencies and non-governmental organizations, which could help the Committee to pinpoint actual problems and provide information on areas needing special attention.

2. Miss MASON said that the urgent action procedure had to be defined in a systematic way so that the Committee would be clear as to what cases justified an immediate response - the aim of which, in her view, would be to remind the State party concerned of its obligations under the Convention, without telling it what to do.

3. The CHAIRPERSON agreed on the need to define what constituted situations requiring urgent action. When doing so, the Committee would also have to look into the question of whether there was any existing system or structure to address particular situations and, if not, whether new arrangements might have to be instituted.

4. Mr. KOLOSOV said that, in his view, every communication, request or complaint addressed to the Committee deserved some kind of response and it would be difficult to distinguish between urgent and non-urgent cases. The Secretariat would have to keep a special file for communications and the first step in each instance should be to send a letter to the Government of the State party concerned for the purpose of determining the validity of any allegations. That should be done on a routine, day-to-day basis, and not simply when the Committee was in session, the latter occasion being the appropriate time to consider follow-up on the information received. That was a minimum the Committee could do in specific cases, bearing in mind that its task was not to assist individual children.

5. Mr. HAMMARBERG said that while the Committee should undertake urgent action, it was no doubt not as well equipped to do so as some non-governmental organizations - such as Amnesty International, for example - and it must be sure that it was not competing with them. The criteria for action would have to include not taking up individual cases but concentrating on patterns of violations, although even there a question arose as to what issues should be addressed by the Committee and what matters would have to be referred to other mechanisms established by the Commission on Human Rights. It might be advisable to appoint a few members of the Committee to look into that question and perhaps formulate recommendations for submission at the Commission's next session concerning a division of work between the treaty bodies and specific action by the Committee in the field of the rights of the child.

6. Mrs. SANTOS PAIS recalled that at its second session the Committee had already established a framework for urgent action, some elements of which were that the Committee should operate in its capacity as a specific treaty body, take action within the United Nations system as a whole and work with other

treaty bodies and the thematic mechanisms established by the Commission on Human Rights. It had been suggested that the Committee should take action in its individual capacity without delay if children's rights appeared to be jeopardized or violations had occurred within the jurisdiction of a State party. However, the Committee must proceed with caution on the basis of reliable and credible information, not pursuing political motivations or yielding to pressure, whether from governmental, non-governmental or United Nations sources.

7. For the time being, the Committee should be trying not so much to define a system as to see how action-oriented procedures might work. One proposal mooted earlier was to request an urgent report from the State party to clarify information the Committee decided to bring to its attention so that it could ascertain its veracity, in the same spirit of dialogue and cooperation which must prevail when discussing periodic reports. Such action did not exclude the possibility of a visit to the country. However, the important thing was to establish a flow of information, not necessarily to take a stand and still less to condemn, since that was not the Committee's role. If information received had a bearing on the work of other treaty bodies, it should be brought to their attention so that the United Nations human rights system operated in an integrated way.

8. Mgr. BAMBAREN GASTELUMENDI said that his particular concern was how the Committee could act in the periods between sessions, of which there were currently only two a year. For a Committee member like himself, from Latin America, where non-governmental organizations had recently made considerable progress in organizing urgent action in a serious way, it was difficult when grave situations arose to explain to the public and the media, as well as to the NGOs, that a response from the Committee on the Rights of the Child would have to await a session that was perhaps three or four months away. The Committee, therefore, had to find ways of making its voice heard and respected internationally, and must not remain silent when it had a moral authority to respond to issues of the greatest sensitivity, namely violations of the rights of children.

9. Mr. MOMBESHORA said that the Committee still had to determine what kinds of situations required urgent attention. In all cases, it must examine its options carefully to make sure that its action would not be counter-productive but would elicit a positive response from the State party to whatever issues of concern it raised.

10. Mr. HAMMARBERG agreed that the Committee should weigh the possible implications of the various types of action it might undertake. There was a great difference, for example, between a public and a non-public procedure. A letter requesting information under a confidential procedure would not be seen as threatening by most Governments. On the other hand, it could be argued that public actions would have greater impact - and indeed it had been the spirit of the Committee so far to work publicly. A second question was whether the Committee should make recommendations or a statement of its position on the basis of the State party's reply, as some people might expect

it to do. Yet another question was whether the Committee should only respond to complaints or whether it could take initiatives in its own right, for example, on the basis of newspaper reports.

11. Ms. PINET (World Health Organization) suggested that if the Committee elected as a first step to request information on a confidential basis, WHO could have an input in checking its scientific value, at least from the health standpoint. As to the question of taking action on its own initiative, the Committee had perhaps a unique privilege among United Nations bodies of being able to contact member States directly. Such contacts could be justified within the reporting procedure, on the basis that issues had not been raised in a previous report or would need clarification in a future report.

12. Mr. CANTWELL (Defence for Children International Movement) said that the Committee had a major role to play as a universally recognized moral authority capable of taking a stand on situations by interpreting the obligations of States parties under the Convention. Urgent action had to yield results in a short time and the Committee might consider taking an initiative particularly where either individuals or groups of children were in danger of dying. Mr. Kolosov had suggested that a response be given to all communications; the NGO experience showed the need for careful screening to make sure that politically motivated requests were set aside, as well as to determine whether information was credible. In general, the Committee would have to decide whether it wanted to have a broad impact by taking up as many cases as possible or whether it preferred to intervene only if absolutely necessary. On that question, his organization believed that the NGO and national communities would welcome a decision by the Committee to act as a forum of last resort when other attempts had failed.

13. Mr. GRIMSMANN (International Labour Organisation) said that ILO had an urgent action procedure, relating to freedom of association of trade unions and employers' organizations, which had evolved in a pragmatic way to meet the needs of its constituents. In the supervisory machinery, minor cases or cases requiring information were addressed directly to Governments so that any misunderstandings could be clarified. ILO had the best experience with that approach. Major and difficult cases were publicized so as to oblige the Government concerned to react publicly. With regard to taking initiatives, ILO itself could act only on the request of the social partners involved in the supervisory procedure or in the light of information from Government reporting under its conventions. It was hard to say whether newspaper articles provided a sufficient justification for the Committee to take action.

14. Mr. BELSEY (World Health Organization) said that WHO, rather like ILO, was constrained to responding to situations where a specific request had been received from a Government. However, it had no procedure for taking urgent action except as directed by the World Health Assembly. Under those circumstances, it could contribute to privileged communication with Governments on a technical level, but the information in question would have to remain confidential, as his colleague Ms. Pinet had already indicated, unless its release was authorized or requested by the Government concerned.

Another possibility would be for WHO, along with other technical agencies, to offer preliminary scientific support in devising means of rapidly evaluating the kinds of information that might be obtained in anticipated sets of circumstances, which could be identified beforehand drawing on NGO expertise. That would facilitate future work and put the Committee in a stronger position regarding follow-up action.

15. Miss MASON said that the issue of urgent action had, by definition, to be decided urgently if the Committee was to exercise the moral authority vested in it. A working group should be mandated to discuss and come up with answers to the questions raised in the discussion, because the world's children could not wait.

16. Mr. HAMMARBERG said that one additional element such a working group might consider was the possibility for on-site visits, which could prove more effective in some cases than a continuing exchange of written communications.

17. After a discussion in which Mr. KOLOSOV and Mrs. SANTOS PAIS took part, the CHAIRPERSON suggested that a working group on urgent action, composed of Mrs. Belembaogo, Mr. Hammarberg and Mrs. Santos Pais, should be established and that representatives of the World Health Organization, the International Labour Organisation, the Office of the United Nations High Commissioner for Refugees and Defence for Children International Movement would be invited to contribute to its discussions in an informal capacity.

18. It was so decided.

19. Ms. ASTRUP (United Nations Children's Fund) said that her organization had suggested that an informal consultation should be held in Africa, with visits to two countries in East Africa, Eritrea and Kenya; two in southern Africa, South Africa and Mozambique; and two in West Africa, Sierra Leone and Burkina Faso. There might be a pre-sessional briefing in Nairobi and a post-sessional meeting in Abidjan, both at the regional offices of UNICEF.

20. Mrs. SANTOS PAIS said that the Committee's practice of holding one informal meeting each year should be institutionalized. Such meetings were important in bringing the Committee closer to the actual situation in a region, in particular when it was possible to hold field visits. Africa was a very important region, since it accounted for the largest number of ratifications of the Convention and should provide the largest number of reports. She added that the informal meetings should be fully covered in the Committee's report and summary records.

21. The informal meeting in Asia had yielded very positive results: the Committee had been fortunate in being able to meet with United Nations regional bodies and NGOs active in the field and to have the participation of children from the region and of the press. Relations with the press in general needed to be improved, and one way of doing so might be to appoint one member to act as a link between the Committee and the press. The Committee had also held in-depth discussions with ASIANET, an information network existing in the region, which would be useful for its future work.

22. The field visits to three countries in the region, Thailand, the Philippines and Viet Nam, had been most positive. Especially important had been the visit to Viet Nam, immediately after the Committee's consideration of its report, for the purpose of following up the discussion and the Committee's recommendations. Viet Nam had given the Committee a very promising reception, which was an example for other countries to follow.

23. Mr. HAMMARBERG referred to the Committee's role in national monitoring, as mentioned in the Vienna Declaration and Programme of Action of the World Conference on Human Rights. The visit to Viet Nam had been extremely important in that light. Miss Mason and he had been able to participate in a major meeting attended by representatives from all the provinces in Viet Nam and to hold significant discussions with the authorities on the meaning of the Committee's concluding observations on the report of Viet Nam. He was confident that those discussions would lead to significant action by the authorities, in particular in the administration of juvenile justice.

24. Mrs. BELEMBAOGO said that the Committee's visits to the countries in the Asian region had had many positive results. They had allowed it to establish a direct dialogue with governmental services, NGOs and especially the media. The national NGOs in particular had appreciated the opportunity to have a direct dialogue with government services, which it was hoped would continue after the Committee had left. The Committee had also been able to work successfully with UNICEF Regional Offices, especially in the Philippines. The consultations had highlighted the need for a national monitoring mechanism, and suggestions to that effect had been made, in particular in the Philippines.

The meeting was suspended at 4.25 p.m. and resumed at 4.35 p.m.

GENERAL DISCUSSION ON "PROTECTION OF THE CHILD AGAINST ECONOMIC EXPLOITATION" (agenda item 11)

25. Mr. KOLOSOV said that the general discussion should be carefully prepared in advance, in order to avoid the uncertainty that had reigned at the beginning of the Committee's discussion on children in armed conflicts.

26. Mrs. SANTOS PAIS endorsed Mr. Kolosov's suggestion. The Committee would be receiving important contributions from NGOs and specialized agencies, and all that material should be taken into consideration in its deliberations. She suggested that the Committee should hold informal consultations, perhaps in a closed meeting, to prepare the discussion along the same lines as its discussion on children in armed conflict, with a view to subsequent consideration by the Working Group and recommendations for the Committee's next session.

27. Mr. HAMMARBERG said that there appeared to be some confusion as to the purpose of the general discussion. One purpose was to generate publicity: to raise awareness of the problems with which the Committee dealt; in that case, it would have to be said that the initiative of October 1992 had failed. Another purpose was to provide the Committee with advice on handling reports by States parties, which was a perfectly legitimate one and valuable in creating a body of knowledge for the Committee to use in drafting general

comments. He believed the Committee should attempt to interest the media world in so important a subject as the economic exploitation of children. If it failed again, however, it must conclude that it was not possible to attract media interest in that type of discussion in Geneva. In any event, the quality of the discussion should be such that it would be worthwhile to publish the proceedings. The newly-established Journal on the Rights of the Child in the Netherlands had indicated that it would be interested in future in publishing thematic issues of the Committee's general discussion each year. Another possibility would be cooperation with ILO and UNICEF in publishing a small book on the subject. In his opinion, any publications should be edited versions. He agreed with Mrs. Santos Pais that the Committee should gear its reflection towards the outcome of the discussion, and he supported her proposal to hold informal consultations to prepare the discussion.

28. The CHAIRPERSON said that if she heard no objection, she would take it that the Committee wished to hold a closed meeting lasting for one hour at the beginning of its next meeting in order to discuss the organization of the general discussion on protection of the child against economic exploitation.

29. It was so decided.

QUESTION OF INDICATORS (agenda item 10)

30. Mr. HAMMARBERG noted that the Committee did not have sufficient time during the current session to examine the complicated and important question of indicators in depth.

31. He therefore proposed that the Committee should note the events that had taken place since the third session and entrust the members nominated at the previous meeting with the task of discussing the matter and reporting to the fifth session of the Committee.

32. It was so decided.

SYSTEM OF DOCUMENTATION AND INFORMATION (agenda item 13)

33. Mrs. SANTOS PAIS said that, at the meeting planned for 9 October 1993, the Committee would hear contributions from different partners about the systems that they were developing on the rights of the child. The Health Legislation Unit of WHO had a large collection. She suggested that the Committee should take advantage of the opportunity of meeting in Geneva and to pay an informal visit to that WHO unit.

34. Ms. PINET (World Health Organization) promised to arrange a visit by the Committee to the Health Legislation Unit and suggested that the Committee might also explore the possibility of looking at other information systems.

35. The CHAIRPERSON thanked the WHO representative for her offer.

36. Mr. HAMMARBERG said that UNICEF would be hosting the meeting scheduled for 9 October 1993 at its offices, to which ILO, WHO and UNHCR were also invited. UNICEF had promised to give a demonstration of the CHILDNET information system which he hoped the members of the Committee could attend during the last week of the Committee's session.

37. The CHAIRPERSON welcomed the suggestion.

FUTURE MEETINGS OF THE COMMITTEE (agenda item 14)

38. Mr. HAMMARBERG requested that an additional three-week session should be held in 1994, probably in May, in addition to the two sessions already agreed. Regarding the pre-sessional working group meetings, he suggested that the most efficient method of procedure would be to forward a draft list of issues to Governments, in order to allow them to prepare their presentations to the Committee. He also suggested that some of the material in the list of issues should be added to the guidelines in order to fill the existing gaps. The list would thus be much shorter and raise specific issues which were relevant to the report of the State party concerned. A list could be drafted without convening a meeting, if two members of the Committee were authorized to approve it. The format of the preparatory meeting would then be changed, and the Committee members would familiarize themselves with the country report and prepare substantive questions for the session with the Government, which was the main purpose of the meeting. That preparatory meeting could be held during the week immediately preceding the meeting with the Government, which was the practice in other committees. He had raised the matter under the present agenda item, because the proposed procedure would affect the dates of the meetings.

39. The CHAIRPERSON said that Mr. Hammarberg's proposal would change the concept of the pre-sessional meetings. Instead of requesting more information, since that information would already have been included in the guidelines, the Committee would in fact be deciding on the critical questions that would be asked during the meetings. His proposal did not envisage a break between the pre-sessional meeting and the session itself and she inquired whether that period would be equal to or shorter than the pre-sessional meeting.

40. Mr. HAMMARBERG pointed out that since the Committee's preparations were based to a considerable extent on cooperation with the agencies and the NGOs, it would be a great advantage for the national NGOs if they could supply their information at the preparatory meeting and also attend the meeting at which that particular country's report came up for discussion. Furthermore, it would be more convenient and less expensive for them if they did not have to travel to Geneva twice.

41. Mr. MOMBESHORA said that he was doubtful whether the addition of questions to the guidelines at the present time would be of any help to the countries that had already submitted a report. He suggested that the Committee could send those countries the list which it had already drafted and

which should cover some of the questions which the Committee wanted them to address. That would help the Committee to manage its workload more efficiently if the pre-sessional meetings were discontinued and replaced by actual meetings to which the countries sent representatives.

42. Mrs. SANTOS PAIS said that she disagreed with the proposed reformulation of the guidelines because the Committee had only drafted the guidelines for the initial reports to be submitted by the States parties. She feared that the new approach being suggested by the Committee might make the guidelines excessively detailed and would certainly lead to the omission of important points. In her view, the Committee should maintain its global approach to the different thematic issues, leaving the States free to fill the gaps. In some cases, the questions being asked in the list of issues referred to the consolidated guidelines, which the States should have taken into consideration in the core document submitted to the Centre for Human Rights.

43. On the question of the pre-sessional working groups, whatever solution was adopted, the Committee should bear in mind that a decision had already been taken by States parties, as well as a decision by the General Assembly to allocate resources for pre-sessional working group meetings which, as the Committee had itself recommended, should take place two months in advance of the session for approximately two weeks. In order to make better use of that opportunity the Committee should, for example, meet in a larger working group, and should consider the question of technical assistance and international core operations thoroughly in view of the different States parties' reports. Perhaps some of the reports could be dealt with by the pre-sessional working groups, if such groups were composed of the Committee as a whole. In the effort to make improvements, members should avoid acting with undue haste and should consider carefully all the implications of each of the steps to be taken in future, in order to take advantage of the support the Committee was receiving from the international community.

44. Mgr. BAMBAREN GASTELUMENDI thanked Mrs. Santos Pais for her very balanced statement and asked Mr. Hammarberg how the proposed questionnaire would be drafted. The Committee had succeeded in sending the questionnaires to the countries well in advance to enable them to work in depth on the matters of interest to it. He inquired how the same effect would be achieved if the Committee held only the meetings that were being proposed.

45. Mr. HAMMARBERG said that the 12 or 13 lists of issues which the Committee had sent out had been strikingly similar. The questions were too numerous and too repetitive. They were of a general nature reflecting some of the problems found in the guidelines, particularly with regard to article 4, which dealt with the implementation of the Convention. The list of issues would, however, forewarn the Governments that the Committee wanted to focus discussion on about 10 subjects. The drafting of such a list of issues would not necessitate the convening of a session but might entail a revision of the Committee's working procedures. If the major issues were actually covered by the revised guidelines, the Secretariat could prepare a draft list of issues, which two members of the Committee would be asked to approve before it was

transmitted to Governments. The approved list could then be dispatched fairly quickly to the Governments. Once the Government's report was submitted, the United Nations would issue the invitation to a session, to which the list of issues would be attached.

46. Mr. KOLOSOV said that he thought the matter ought to be discussed in c' sed meeting.

47. The CHAIRPERSON suggested that the question should be taken up in closed meeting on the following day.

48. It was so decided.

The meeting rose at 6.05 p.m.